

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MC ALLEN DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 7:14-CV-00942
)	
Plaintiff,)	CIVIL
)	
vs.)	McAllen, Texas
)	
ALL FUNDS ON DEPOSIT)	Thursday, June 2, 2016
AT SUN SECURED ADVANTAGE,)	
ACCOUNT NO. *3748, ET AL.,)	(10:14 a.m. to 10:17 a.m.)
)	
Defendants.)	

STATUS CONFERENCE

BEFORE THE HONORABLE RANDY CRANE,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For United States:	MARY ELLEN SMYTH, ESQ. Office of the U.S. Attorney 1100 Matamoros, 2nd Floor Laredo, TX 78040
For Defendants:	BENIGNO TREY MARTINEZ, III, ESQ. Martinez Barrera Martinez 1201 E. Van Buren St. Brownsville, TX 78520
Court Recorder:	Rick Rodriguez
Transcribed By:	Exceptional Reporting Services, Inc. P.O. Box 18668 Corpus Christi, Texas 78480-8668 361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 McAllen, Texas; Thursday, June 2, 2016; 10:14 a.m.

2 (Call to Order)

3 **THE COURT:** All right. Next is 14-CV-942: *USA versus*
4 *All Funds on Deposit at Sun Secured Advantage.*

5 **MS. SMYTH:** Mary Ellen Smyth and Jesse Salazar for
6 the government, your Honor.

7 **MR. MARTINEZ:** Trey Martinez on behalf of the
8 claimant.

9 **THE COURT:** All right. So what's left if anything?
10 I mean we need -- we still have the funds.

11 **MS. SMYTH:** Correct.

12 **THE COURT:** I've denied disentitlement. I've denied
13 the claims of the defendant in the criminal case. I've
14 dismissed the claims of the government as to the home.

15 **MS. SMYTH:** Correct.

16 **THE COURT:** The only thing left then is the money and
17 I guess I need a motion for default or something.

18 **MS. SMYTH:** We filed one, your Honor. It's -- and I
19 don't have the docket number.

20 **THE COURT:** But this is -- we're at a point where we
21 just need a default judgment as to it.

22 **MS. SMYTH:** I think I filed it as a motion for entry
23 of judgment of forfeiture. I don't think I called it a default
24 per se. I can refile it, rename it, if the Court would like
25 for me to do that.

1 **THE COURT:** I mean I think it needs to be a default.
2 Yes, all right. If you wouldn't mind doing that.

3 **MS. SMYTH:** I don't mind at all, your Honor.

4 **THE COURT:** All right. Anything else you think that
5 is still pending?

6 **MR. MARTINEZ:** No. Other than the fact that we still
7 have not one shred of evidence and I think the Court has ruled
8 in its ruling we can't just go based upon allegations. There's
9 got to be something and I don't know how to deal with this,
10 Judge, without having -- you told the government twice. You
11 put it in your orders. I don't know how to deal with this when
12 I don't have any evidence other than the allegations and I
13 understand the Fugitive Disentitlement Act.

14 **THE COURT:** Right, I mean it's -- I don't make the
15 laws but it's a -- I mean that's a harsh act but I mean I think
16 it controls here and it's a way of forcing somebody from out of
17 the country to come in here and answer to criminal allegations
18 even though like as you've said many times, you know, it's very
19 reasonable that your client would not want to come here and
20 expose himself to that for reasons unrelated to the merits of
21 the case. That's simply the risk is more than the person wants
22 to expose himself to.

23 **MR. MARTINEZ:** And I understand and at this point in
24 time, your Honor, basically I need to simply make a record
25 saying that --

1 **THE COURT:** Sure.

2 **MR. MARTINEZ:** -- the government in this case,
3 although we've requested it, and we've only got evidence from
4 the defendants has still not produced one shred of evidence in
5 order to support any civil forfeiture claims at this point.

6 **THE COURT:** Right.

7 **MR. MARTINEZ:** And I know they have it and they for
8 whatever reason don't want to produce it but that's what the
9 record is showing at this point in time. So they can request
10 the default judgment and we'll respond to it accordingly and
11 then we may have to have another hearing if there's some case
12 law that we can come up here. If there's not then I imagine
13 we'll just get a ruling by the Court.

14 **THE COURT:** All right. Okay. Well then, I'll look
15 for the motion for default and then enter an order and, you
16 know, have your appellate rights I guess. All right. Thank
17 you for being here, both of you-all.

18 **MR. MARTINEZ:** Thank you, your Honor.

19 **THE COURT:** And Ms. Smyth, I'll look for that
20 shortly.

21 **MS. SMYTH:** Thank you, your Honor.

22 **(Proceeding was adjourned at 10:17 a.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read "Toni Hudson", is written over a horizontal line.

Signed

August 30, 2016

Dated

TONI HUDSON, TRANSCRIBER